

AMENDMENT TO THE DRAWINGS

Figures 1-3 and 6-11 have been amended. Enclosed are eleven Replacement Sheets of drawings containing Figures 1-11 which replace the original sheets.

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated December 28, 2005.

Applicant's attorneys appreciate the Examiner's thorough search and examination of the present patent application.

Claims 1-15 are pending in this application. All claims were rejected.

The drawings are objected to for failing to comply with 37 C.F.R. §1.84(p)(5) because all of the reference characters are not mentioned in the specification and because the text in block 71 in Figure 5 is not legible. In response, appropriate amendments are made in the specification and replacement drawing sheets are provided. A narration of flowcharts of Figures 6-11 is also added at page 10. No new subject matter was added.

In response to the Examiner's objection to the Abstract, a replacement Abstract is provided herewith.

Claim 3 is objected to under 37 C.F.R. §1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim; claims 2, 4, 5-8, 10-11 and 13-14 are objected to because of a lack of antecedent bases; and claim 4 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. In response, claims 2-8, 10-11, and 13-14 were amended to correct the pointed out irregularities.

Claims 1, 12 and 15 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,029,045 to Picco ("Picco"); claims 2-11 and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Picco; and claim 13 is rejected under 35 U.S.C. §103(a) as being unpatentable over Picco in view of U.S. Patent No. 6,704,930 to Eldering ("Eldering").

§102 rejection

In response independent claims 1, 12, and 15 were amended to recite "receiving the user characteristics and schedule information on a viewer's receiver device" and "selecting the target content according to features available on the receiver device". Support for these elements is found on page 7, line 33 to page 8, line 4 of the present application.

The amended independent claims recite a receiver device. The steps performed in accordance with the claims are performed on the receiver device. The receiver device is a set-top

box. Picco does not disclose performance of claimed steps on the set-top box.

Picco discloses a system for communicating a programming data stream and a data stream containing pieces of local content data that are going to be inserted into a local content space in the programming data stream at some predetermined time. The programming data stream and the local content digital data stream are transmitted to a set-top box. The set-top box stores a predetermined portion of the pieces of local content data based on predetermined criteria, and identifies a local content space in the programming data stream. The set-top box may also select a particular piece of local content from the storing system to insert into the local content space in the programming data stream based on a plurality of predetermined preferences of the user.

The Examiner contends that selections from col. 7 of Picco teach performance of steps on the set-top box as claimed in amended claims 1, 12, and 15. All of the Picco steps discussed in col. 6 line 42 to col. 10 line 32 are performed at the uplink facility 102. Thus, these selections do not anticipate claims 1, 12, and 15 as amended.

§103 rejections

In rejecting claim 13, the Examiner admitted on page 14, last line to page 15, line 1 that “Picco fails to explicitly disclose a content schedule component and a profile component”. The Examiner, however believes that Eldering remedies the deficiency. Eldering does not. As discussed below Eldering fails to disclose the use of a content schedule component and a profile component on the set-top box.

In accordance with amended claims 2 and 4 the claimed target content presenting method includes steps of monitoring programming and content streams for opportunity descriptors and content descriptors and “determining a source for alternate target content”. Picco does not teach these limitations.

Monitoring

The specification describes the opportunity descriptors on page 17, lines 24-30, as follows:

“The opportunity descriptor is a data set that matches viewer group characteristics with a probability for each viewer group to be a viewer during the opportunity.

Processes and methods for this type of match can be found in the applicant's co-pending application entitled "Method and System for targeted Advertising". As is the case for content descriptors, the opportunity descriptors can include encrypted components using the necessary encryption and decryption schemes."

In rejecting the above monitoring step, the Examiner references col. 14, lines 4-6 of Picco. These lines read:

"In step 254, the set-top box determines if a local content space in the programming data has been encountered and loops back to step 252 if no local content space has been located."

Clearly, the referenced section does not provide a description of the claimed opportunity descriptors and content descriptors described on page 17, lines 24-30 of the application.

Determining

The claimed step of determining a source for alternate target content is performed by the MDE process on the set-top box for selecting an available message for display, as described at page 11, lines 26-30. The Examiner believes that sending signals that indicate whether the local content should be stored on disk discussed at col. 7, line 41-col. 8, line 11 of Picco. That is not so. The scheduler process 148 performing the tasks described in the section of Picco cited by the Examiner is executed on the uplink facility 102 not on the set-top box.

As for claim 13, The Examiner again fails to distinguish between the set-top box used for the execution of the MDE process and for storage and utilization of the content schedule and the head-end used by Eldering. The Examiner states the following on page 15, lines 8-12 of the Office Action dated December 28, 2005:

"Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Picco with the teachings of Eldering in order to facilitate the headend comprising a content schedule component and profile component for the benefit of providing management to the headend by managing the insertion process of local content in the programming stream (Eldering – Background)."

It is not clear that it is so. However, that question is moot, because in the present claimed invention the scheduling is performed on the set-top device not at the head-end (see page 6, line 4 to page 7, line 11).

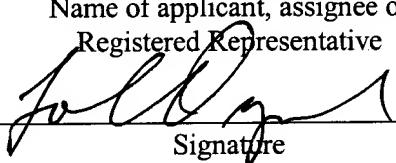
Thus, Applicants' independent claims 1, 12, and 15 are patentably distinct from Picco,

Eldering, or their combination. Claims 2-11 and 13-14 depend directly or indirectly from above discussed independent claims and are, therefore, patentable for the same reasons, as well as because of the combination of features in those claims with the features set forth in the respective independent claims.

In view of the above, it is submitted that all claims in this application are now in condition for allowance, prompt notification of which is requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on March 9, 2006:

Louis C. Dujmich
Name of applicant, assignee or
Registered Representative


Signature

Respectfully submitted,


Louis C. Dujmich
Registration No.: 30,625
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700

March 9, 2006
Date of Signature

LCD:JK:ck